IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

CRL.A.No. 508 of 2000()

APPELLANT: COMPLAINANT

RAJAN.P.PALLAN,
S/O.JOSE PALLAN,
PALLAN VEEDU,
NEAR UNNIMISIHA CHURCH,
CHEMBAKAVU VILLAGE,
THRISSUR TALUK.

BY ADV. SRI.LLOYD JOSEPH VIVERA

RESPONDENTS: ACCUSED
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1. **JACOB,**
   S/O. KANDANKERI MATHEW,
   PARAVATTANI DESOM,
   OLLUKKARA VILLAGE,
   THRISSUR TALUK.

2. **STATE OF KERALA**
   REP.BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.C.SANTHOSHKUMAR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 21/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY, J.

Crl. Appeal No.508 of 2000

Dated this the 21st day of February, 2007

Judgment

This appeal is filed by the complainant against acquittal of the accused under section 256 of the Code of Criminal Procedure. The complaint was filed for dishonour of cheque for insufficiency of funds. Originally, the case was posted before the Judicial First Class Magistrate's Court No. I, Thrissur. The accused appeared and took bail and, later, the case was made over to the Chief Judicial Magistrate's Court, Thrissur. When the case was called on 2.5.2000, the appellant was absent and the accused was acquitted for absence of the complainant. The impugned order is a stereo-typed order without application of mind. Even though accused can be acquitted under section 256 of the Code of Criminal Procedure for the absence of the complainant, it should not be done mechanically. On the facts and circumstances of the case, the impugned order is set aside and the matter is remanded.

The complainant shall appear before the trial court on 26.3.2007. Notice sent by this court was evaded. Anyway, since notice was not served, fresh steps should be

taken by the complainant for service of notice to the first respondent/accused.

Appeal is allowed by way of remand.

J.B. KOSHY
(JUDGE)

vaa

J.B.Koshy, J.

Crl. A. No.508 of 2000

Judgment

21-2-2007